IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION 5:10CV7-1-MU

PATRICK RICARDO SMITH,)	
Plaintiff,)	
v.)) <u>ORDER</u>	
DOUG WALKER, et al.,)	
Defendants.)	
)	

THIS MATTER is before this Court upon a Complaint pursuant to 42 U.S.C. §1983 which was filed by the Plaintiff <u>pro se</u>. Defendants have filed a Motion for Summary Judgment with a supporting brief. (Doc. Nos. 24 and 25.) It appears that Defendants may be entitled to summary judgment as a matter of law.

The Plaintiff is advised that under the provisions of Rule 56(e) of the Federal Rules of Civil Procedure, he is required to submit documents, affidavits, or unsworn declarations made under penalty of perjury, in opposition to the Motion for Summary Judgment and supporting documents filed by Defendants. Rule 56(e) reads in pertinent part as follows:

When a motion for summary judgment is made and supported [by affidavits], an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or as otherwise provided by this rule, must set forth specific facts showing that there is genuine issue for trial. If he does not respond, summary judgment, if appropriate, shall be entered against him.

This rule requires that if the Plaintiff has any evidence to offer to counter the evidence contained in the Motion for Summary Judgment and supporting documents filed by Defendants, he

must present it to the Court in the form of documents, affidavits, or unsworn declarations under

penalty of perjury. An affidavit is a written statement made under oath; that is, a statement prepared

in writing by the Plaintiff and sworn before a Notary Public. If the Plaintiff chooses, he may instead

submit an unsworn declaration and state the following with the date and his signature:

"I declare under penalty of perjury that the foregoing is true and

correct."

PLAINTIFF SMITH READ THIS:

The Plaintiff is further hereby advised that he has thirty (30) days from the filing of this

Order in which to file documents, affidavits, or unsworn declarations in opposition to Defendants'

Motion for Summary Judgment. FAILURE TO RESPOND WITHIN THIS TIME PERIOD

MAY SUBJECT THIS ACTION TO SUMMARY JUDGMENT.

THEREFORE, IT IS HEREBY ORDERED that the Plaintiff has thirty (30) days from the

filing of this Order in which to provide his own documents, affidavits, or declarations countering

the evidence offered by Defendants' Motion for Summary Judgment. (Doc. Nos. 24 and 25.)

Signed: August 16, 2010

Graham C. Mullen

United States District Judge

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